

## **Egremont Planning Board Minutes**

### **Public Hearing, September 17, 2020**

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**Call to Order:** 4:09 PM

**Present via Zoom:** Jared Kelly, Eddie Regendahl, Nick Keene, Matthew Bersani, Donna Gordon

**Citizens in Attendance:** Marj Wexler, Richard Allen, Bruce Bernstein, Fred Gordon, Karen Byrne, Joan Goodkind, Linda?, Bryan Frank, Thea Bassis, COA Alford, Eileen Vining, Anna Makki, Carissa Mann, Chester Delaney, Gary Suzie, George McGurn, Jays, Mary McGurn, Rebecca Rozhon, Steve Cohen, Kenneth Murphy, Gregory Cherin, Don Pulfer, Lisa D. Williams, Cathy Fracasse, Mark Holmes, Piersanti, Barbara's I-phone, Lucinda Vermeulen, Caroline Forsman, Randy Shaw (IPAD 2).

Chairperson Kelly (JK) announced that the Public Hearing was duly noticed in the Berkshire Eagle on September 2, 2020, & September 9, 2020.

It was announced that the meeting is video and audio recorded.

The following Agenda was presented:

- 1) Why Accessory Dwelling Units (ADU's); Purpose and Intent
- 2) Planning Board (PB) ADU proposal followed by Q&A
- 3) Citizen's Petition (CP) ADU proposal followed by Q&A
- 4) Discussion of the differences between the PB and CP version
- 5) Final Questions and Comments

JK asserted that both the PB and CP versions are pro ADU's. The main differences are with regard to the regulations built into them.

#### **Questions to consider:**

- 1) Does the community want ADU's? If yes, let's work toward creating one Bylaw that works best for most people to present at Special Town Meeting in October.
- 2) If we want ADU's, should they be done by right or by special permit? Currently, if you want to build a 1 or 2 family house you can do that by right. If you want to build a multifamily dwelling or business that is by Special Permit.
- 3) What size is appropriate for an ADU? Typically, ADU's are thought of as small homes, around 700-900 square feet. Large enough to accommodate 1 or 2, maybe 3 bedrooms. It's small in scope and intent.

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4) What type of side and rear setbacks are appropriate for an ADU? Currently, our homes have 25 feet setbacks, and businesses have 50 feet setbacks.

5) Do we want acreage minimums? Currently, we require a 1 acre minimum for a single family home. Multifamily homes require 2.5 acres minimum. Do we want acreage requirements to be similar for ADU's or do we want them to be the same for all types of buildings?

6) Should all structures allow ADU's? Single family? Two family? Multifamily? Businesses?

7) Should there be rental restrictions on ADU's? Currently, Egremont has no short term rental restrictions. Neither the PB or CP version propose to regulate short term rentals. The PB version does have a provision in place which limits the number of units that can be rented simultaneously. It does not speak to duration.

8) If a newly built ADU requires an additional well, should there be a specific setback? Our current Bylaw currently stipulates a 100 feet separation between well and septic system.

**Purpose and Intent:** The PB recognizes the need for alternative housing to meet the needs of the community. Specifically, 1) Support housing for family members and housing for on-site caregivers, 2) Moderately priced workforce housing for residents, 3) the potential for additional rental income to enable residents to age in place.

Joan Goodkind spoke to the history of the Housing Committee's interest in exploring moderately priced housing and work force options for the town. The PB's work on ADU's presented an opportunity for the Housing Committee to collaborate toward mutual goals. She supports the PB version's rigorous focus on protection of neighbors.

**PB Proposal:** The objective of the PB's proposal is to allow homeowners expanded use of their property by right, while building in protections for neighbors primarily through the use of setbacks and acreage minimums. JK presented the Planning Board's proposed ADU amendment explaining new definitions and each proposed provision and the rationale behind it. (See attached Power Point) He explained the amendment, if passed, will be folded into our existing bylaw and not be a stand alone bylaw.

### **PB Version Q&A**

**Q:** Don Pulfer. re: Gross Floor area: Why not define it generally, and not specifically to an ADU? **A:** We don't want the amendment to interfere with other bylaw provisions where gross floor area is referenced. The intent of an ADU is specifically to be a small dwelling, an accessory to the principal structure. Two family units can be any size, an ADU can not.

**Q:** Looking for clarification of "detached" in the definition. Does it have to be a different building? **A:** Our current Bylaw already allows by right provisions for attached units; to

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have 2 family and multifamily units. It does not currently allow for a detached dwelling by right.

**Q:** Richard Allen: Seeking clarification around whether a retail business is considered a dwelling and on residential vs retail definition. **A:** Not sure if “retail” is considered a dwelling.

**Q:** Linda: Do setbacks apply only to new builds or also to current structures on a property? **A:** Current structures, 25 feet side/rear setbacks. All existing buildings remain at setbacks of 25 feet. New builds will require 50 feet setbacks.

**Q:** Kenneth Murphy: Does 800 square foot limitation apply to only first floor or to total square footage including two story structure? **A:** Total square footage.

**Q:** Karen Byrne: We have 46 acres. Can we create separate dwellings for our children and have them own them? **A:** Separate ownership is not allowed in this proposed ADU Bylaw. However, if you have sufficient frontage, you can divide your lot by right. To divide your lot you need 150 feet of road frontage.

**Q:** Kathy Fracasse: In PB version, if you have a single or two family + ADU, does the owner have to be in residence in at least one of those dwellings? I don't think there is any such requirement for a two family. **A:** True. In a two family, both units exist under the same roof. With an ADU, there is a separate dwelling which may affect your neighbor. To clarify, the owner does not have to be present in any dwelling when they are renting the allowable number of units. **Q:** Is there any requirement regarding the distance of the ADU from the primary dwelling unit? **A:** No requirement.

**Q:** Carissa Mann: Does the owner have to live in ADU or primary residence? **A:** Property owner does not have to be present in any dwelling. They cannot rent all dwellings at the same time. If owner has ADU+1 house, 1 can be rented at a time, if owner has ADU+2, 2 can be rented at once. **Q:** Could an owner rent all units on a long term basis? **A:** 1 of 2 or 2 of 3 units can be rented on a long-term basis.

**Q:** Lisa Williams: Can an ADU be in a trust separate from the owner? **A:** The intent is there is one owner for the property that has ADU. If your trust owns the property, they own primary property and the ADU.

**Q:** Bruce Bernstein: How does the Bylaw deal with non-conforming lots, septic systems and parking? **A:** the ZBA and special permit process would address non-conforming lot issues, 2) Septic system requirements are under the purview of the Board of Health and 3) there are no regulations addressing parking in town Bylaws; the one acre minimum requirement for an ADU should provide sufficient parking.

**Citizen Version (CP) & Identification of Differences in BP and CP Version:** Richard Allen, drafter of the Citizen's version, stated it is wise to put forth one version, rather than two, of an ADU proposal at the upcoming Special Town meeting. He agreed with the PB

that differences between them are few and contain more similarities than differences. He highlights the CP version is shorter and simpler and believes a Bylaw with fewer restrictions will result in more ADUs. Speaking to substantive differences: 1) CP does not have any provisions with rental restrictions as CP believes town wide rental restrictions should apply to all housing. 2) CP doesn't believe any provision regarding wells should be in proposed Bylaw as town Bylaw already regulates, and the Board of Health oversees. Richard invited citizens to call or email him with questions/comments. JK pointed out further differences: CP version is more permissive with respect to businesses and would allow an ADU on a Multifamily lot. In the interest of adding protections to neighbors, the PB version requires a special permit for a business and prohibits an ADU on a multifamily lot. Multifamily structures can, by right, add units on an existing structure. Richard added that the CP version does not restrict itself to "detached" units adding ADUs can be allowed in "attached" units. JK pointed out this is already allowed by right.

JK addressed the idea of introducing amendments at the Special Town Meeting on specific provisions where the PB wants to hear from the citizens. Specifically, the rental restriction and the well setback; primary differences between the PB and CP version.

### **Follow-Up Q&A**

**Q:** Joan Goodkind: Did you discuss setback requirements for ADUs after Bylaw goes into effect? **A:** 25 feet vs 50 feet for future buildings. Agreed on by both versions.

Carissa commented she believed less restrictions would help ADU pass. She recommended PB go forward with slimmed down version with amendments in pocket and add them in after vote.

Greg Cherin commented that rather than refer to restrictions, call them protections. The reason behind them is to protect neighbors and abutters and much thought has gone into protections.

**Q:** Randy Shaw: Why choose the 1200 square feet limit limit 1200 for an AUD if a special permit is needed? **A:** The choice goes back to the intent and purpose of the Bylaw; small in scope, aging in place, moderate income, family support etc.

Lisa Williams said she is concerned about the 25 feet setback distance from a side neighbor. JK reiterated the current zoning Bylaw is 25 feet and that would remain for existing buildings. new builds would be subject to 50 feet setback.

**Q:** Steve: What was the rationale to not include garages, porches, etc. in the square footage definition? **A:** Garages can currently be built by right.

No further questions/comments were requested.

Next Meeting: September 30, 2020

Meeting Adjourned: 6:16 PM

Submitted by Donna B. Gordon, Clerk, 9/28/2020

